

(AJWx), CLOSED, DISCOVERY

**UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF  
CALIFORNIA (Western Division – Los Angeles)  
CIVIL DOCKET FOR CASE #: 2:11-cv-05180-GHK -AJW**

ARC Finance Group LLC v. United States Department of Justice et al  
Assigned to: Judge George H. King  
Referred to: Magistrate Judge Andrew J. Wistrich  
Cause: 05:552 Freedom of Information Act  
Date Filed: 06/21/2011  
Date Terminated: 08/20/2012  
Jury Demand: None  
Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**ARC Finance Group LLC**  
*a Delaware Limited Liability Company*

represented by **Eric Wittenberg**  
Eric J. Wittenberg Co LPA  
60 West Columbus Street  
Pickerington, OH 43147  
614-834-9650  
Fax: 314-837-5432  
Email: [eric@ewittenberglaw.com](mailto:eric@ewittenberglaw.com)  
**PRO HAC VICE**  
**ATTORNEY TO BE NOTICED**

**Erikson M Davis**  
Law Offices of Erikson M Davis  
11574 Iowa Avenue Suite 104  
Los Angeles, CA 90025  
310-231-7808  
Fax: 818-597-2132  
Email: [erikdavis@att.net](mailto:erikdavis@att.net)  
**ATTORNEY TO BE NOTICED**

**Mitchell J Stein**  
Michael J Stein & Associates LLP  
28720 Canwood Street 2nd Floor  
Agoura Hills, CA 91301  
877-475-2448  
Fax: 818-597-2132  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**United States Department of Justice**

represented by **Alarice M Medrano**  
AUSA – Office of US Attorney  
Civil Division  
300 North Los Angeles Street Suite 7516  
Los Angeles, CA 90012  
213-894-0460  
Fax: 213-894-7819  
Email: [alarice.medrano@usdoj.gov](mailto:alarice.medrano@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**United States Securities and Exchange  
Commission**

represented by **David J Van Havermaat**  
Securities and Exchange Commission  
5670 Wilshire Boulevard 11th Floor  
Los Angeles, CA 90036-3648  
323-965-3998

Fax: 323-965-3908  
 Email: [vanhavermaatd@sec.gov](mailto:vanhavermaatd@sec.gov)  
**ATTORNEY TO BE NOTICED**

**Kevin D Solonsky**  
 US Securities & Exchange Commission  
 100 F Street NE  
 Washington, DC 20549-9612  
 202-551-5014  
 Fax: 202-772-9263  
 Email: [solonskykd@sec.gov](mailto:solonskykd@sec.gov)  
**PRO HAC VICE**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
06/21/2011	<u>1</u>	COMPLAINT against Defendants United States Department of Justice, United States Securities and Exchange Commission. Case assigned to Judge George H. King for all further proceedings. Discovery referred to Magistrate Judge Andrew J. Wistrich.(Filing fee \$ 350 Paid.), filed by Plaintiff ARC Finance Group LLC. [Summons not issued on 6/21/2011] (et) (ds). (Additional attachment(s) added on 6/27/2011: # <u>1</u> Summons) (bm). (Entered: 06/22/2011)
06/21/2011	<u>2</u>	CERTIFICATION AND NOTICE of Interested Parties filed by Plaintiff ARC Finance Group LLC, identifying Other Affiliate Tracey Hampton-Stein, Other Affiliate Heart Tronics Inc for ARC Finance Group LLC. (et) (mg). (Entered: 06/22/2011)
06/24/2011		60 DAY Summons Issued re Complaint <u>1</u> as to Plaintiff ARC Finance Group LLC. (bm) (Entered: 06/27/2011)
06/27/2011	<u>3</u>	ORDER RE: CASE MANAGEMENT by Judge George H. King: This case has been assigned to the calendar of Judge George H. King. See document regarding special requirements. (bm) (Entered: 06/27/2011)
12/15/2011	<u>4</u>	PROOF OF SERVICE Executed by Plaintiff ARC Finance Group LLC, upon Defendant United States Department of Justice served on 12/1/2011, answer due 12/31/2011. Service of the Summons and Complaint were executed upon the United States Attorneys Office by delivering a copy to David Jordan. Executed upon the Attorney Generals Office of the United States by delivering a copy to Unknown. Executed upon the officer agency or corporation by delivering a copy to Unknown. Service was executed in compliance with Federal Rules of Civil Procedure. Due diligence declaration NOT attached. Registered or certified mail return receipt attached. Original Summons NOT returned. (Davis, Erikson) (Entered: 12/15/2011)
12/15/2011	<u>5</u>	PROOF OF SERVICE Executed by Plaintiff ARC Finance Group LLC, upon Defendant United States Securities and Exchange Commission served on 12/1/2011, answer due 12/31/2011. Service of the Summons and Complaint were executed upon the United States Attorneys Office by delivering a copy to David Jordan. Executed upon the Attorney Generals Office of the United States by delivering a copy to Unknown. Executed upon the officer agency or corporation by delivering a copy to Unknown. Service was executed in compliance with Federal Rules of Civil Procedure. Due diligence declaration NOT attached. Registered or certified mail return receipt attached. Original Summons NOT returned. (Davis, Erikson) (Entered: 12/15/2011)
02/21/2012	<u>6</u>	APPLICATION for attorney Kevin Dean Solonsky to Appear Pro Hac Vice (PHV FEE WAIVED.) filed by Defendant United States Securities and Exchange Commission. (Attachments: # <u>1</u> Proposed Order)(Van Havermaat, David) (Entered: 02/21/2012)
02/22/2012	<u>7</u>	NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Documents RE: APPLICATION for attorney Kevin Dean Solonsky to Appear Pro Hac Vice (PHV FEE WAIVED.) <u>6</u> . The following error(s) was found: Other error(s) with document(s) are specified below. Other error(s) with document(s): No signatures

		on Application. Applicant and local counsel did not sign the application. See LR 11-1. In response to this notice the court may order (1) an amended or correct document to be filed (2) the document stricken or (3) take other action as the court deems appropriate. You need not take any action in response to this notice unless and until the court directs you to do so. (lt) (Entered: 02/22/2012)
02/28/2012	<u>8</u>	ORDER by Judge George H. King: granting <u>6</u> Application to Appear Pro Hac Vice by Attorney Kevin Dean Solonsky on behalf of Defendant SEC, designating David J. Van Havermaat as local counsel. (lt) (Entered: 03/01/2012)
03/02/2012	<u>2</u>	ANSWER to Complaint – (Discovery), Complaint – (Discovery) <u>1</u> filed by defendant United States Securities and Exchange Commission.(Solonsky, Kevin) (Entered: 03/02/2012)
03/05/2012	<u>10</u>	NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Documents RE: Answer to Complaint (Discovery) <u>9</u> . The following error was found: Local Rule 7.1-1 No Certification of Interested Parties and or no copies. In response to this notice the court may order (1) an amended or correct document to be filed (2) the document stricken or (3) take other action as the court deems appropriate. You need not take any action in response to this notice unless and until the court directs you to do so. (ir) (Entered: 03/05/2012)
03/07/2012	<u>11</u>	RESPONSE BY THE COURT TO NOTICE TO FILER OF DEFICIENCIES IN ELECTRONICALLY FILED DOCUMENTS <u>7</u> by Clerk of Court that the document is accepted as filed. RE: Application of Non Resident Attorney <u>6</u> . (bm) (Entered: 03/08/2012)
03/07/2012	<u>12</u>	RESPONSE BY THE COURT TO NOTICE TO FILER OF DEFICIENCIES IN ELECTRONICALLY FILED DOCUMENTS <u>10</u> by Clerk of Court that the document is accepted as filed. RE: Answer to Complaint <u>9</u> . (bm) (Entered: 03/08/2012)
03/08/2012	<u>13</u>	ORDER SETTING SCHEDULING CONFERENCE by Judge George H. King: THIS MATTER IS SET FOR SCHEDULING CONFERENCE ON: MONDAY, MAY 7, 2012 AT 1:30 P.M., at the Roybal Federal Building and Courthouse, 255 E. Temple Street, Suite 650, Los Angeles, California. Counsel primarily responsible for the conduct of this litigation and who has the authority to enter into stipulations and to make admissions regarding all matters that the participants may reasonably anticipate may be discussed, or the party if unrepresented, SHALL ATTEND IN PERSON. By no later than APRIL 9, 2012, counsel for all appearing parties and all unrepresented appearing parties, if any, shall meet, in person, and discuss the matters set forth in Federal Rule of Civil Procedure 26(f) as well as those items identified in Part III, below. By no later than APRIL 23, 2012, counsel for all appearing parties and all unrepresented appearing parties, if any, shall file a joint "REPORT OF PARTIES' PLANNING MEETING" which shall (1) be so labeled, (2) state the date of the Scheduling Conference set above by this Order, and (3) address not only those subjects in Rule 26(f), but also the following: (see document for further details). (bm) (Entered: 03/08/2012)
03/23/2012	<u>14</u>	NOTICE OF MOTION AND MOTION to Dismiss Case ( <i>The United States Department Of Justice; and Declaration Of Alarice M. Medrano</i> ) filed by Defendant United States Department of Justice. Motion set for hearing on 4/23/2012 at 09:30 AM before Judge George H. King. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Proof Of Service)(Medrano, Alarice) (Entered: 03/23/2012)
03/28/2012	<u>15</u>	APPLICATION for attorney Eric J. Wittenberg to Appear Pro Hac Vice(PHV Fee of \$325 receipt number 0973-10141385 paid.) filed by Plaintiff ARC Finance Group LLC. (Attachments: # <u>1</u> Exhibit Certificate of Good Standing, # <u>2</u> Proposed Order)(Davis, Erikson) (Entered: 03/28/2012)
04/05/2012	<u>17</u>	ORDER by Judge George H. King: granting <u>15</u> Application to Appear Pro Hac Vice by Attorney Eric Wittenberg on behalf of Plaintiff, designating Erikson M. Davis as local counsel. (lt) (Entered: 04/06/2012)
04/06/2012	<u>16</u>	STIPULATION to amend Order, Set/Reset Deadlines/Hearings,,,,,, <u>13</u> filed by defendant United States Securities and Exchange Commission. (Attachments: # <u>1</u> Proposed Order)(Solonsky, Kevin) (Entered: 04/06/2012)

04/13/2012	<u>18</u>	ORDER by Judge George H. King, upon Stipulation <u>16</u> . Parties are granted leave to conduct the Rule 26(f) planning meeting by telephone instead of in person, asrequired by this Court's March 8, 2012 Order. The parties are to conduct theirtelephonic conference no later than April 9, 2012, as required by this Court'sMarch 8, 2012 Order, and are to file a joint report of the results of said meeting no later than April 23, 2012, as set forth in this Court's March 8, 2012 Order. (ir) (Entered: 04/13/2012)
04/17/2012	<u>19</u>	MINUTES (IN CHAMBERS) ORDER re: Motion to Dismiss the United States Department of Justice; <u>14</u> by Judge George H. King granting <u>14</u> Motion to Dismiss Case: This matter is before the Court on Defendant United States Department of Justice's ("Defendant") Motion to Dismiss ("Motion"). We have considered the papers filed in support of this Motion, and deem this matter appropriate for resolution without oral argument. L.R. 7–15. The deadline for Plaintiff to file a timely opposition to this Motion has passed, and Plaintiff has failed to file an opposition. See L.R. 7–9. Local Rule 7–12 provides: Failure to File Required Papers. The Court may decline to consider any memorandum or other paper not filed within the deadline set by order or local rule. The failure to file any required paper, or the failure to file it within the deadline, may be deemed consent to the granting or denial of the motion. Thus, Plaintiff's failure to file an opposition is deemed its non–opposition to Defendant's Motion and its consent to the granting of the relief sought. See Ghazali v. Moran, 46 F.3d 52, 5354 (9th Cir. 1995). Accordingly, Defendant's Motion is GRANTED and Plaintiff's Complaint is DISMISSED as against the United States Department of Justice. (bm) (Entered: 04/17/2012)
04/18/2012	<u>20</u>	JOINT REPORT Rule 26(f) Discovery Plan <i>and Report of Parties' Planning Meeting</i> ; estimated length of trial 0 days, filed by Defendant United States Securities and Exchange Commission.. (Solonsky, Kevin) (Entered: 04/18/2012)
04/26/2012	<u>21</u>	Second STIPULATION to amend Order, Set/Reset Deadlines/Hearings,,,,,, <u>13</u> filed by Defendant United States Securities and Exchange Commission. (Attachments: # <u>1</u> Proposed Order)(Solonsky, Kevin) (Entered: 04/26/2012)
05/03/2012	<u>22</u>	MINUTE ORDER IN CHAMBERS—ORDER by Judge George H. King: On the Court's own motion, the above matter set for scheduling conference on Monday, May 7, 2012, is hereby TAKEN OFF CALENDAR. The hearing date is VACATED. No appearance by counsel is necessary. The Court will issue such further order as deemed appropriate. The parties stipulation filed on April 26, 2012, is MOOT. re: Stipulation <u>21</u> . (lw) (Entered: 05/03/2012)
05/07/2012	<u>23</u>	MINUTE ORDER IN CHAMBERS re Scheduling Order by Judge George H. King: While we find that it is appropriate to set a date for the filing of summary judgment motions at this time, we disapprove of the Parties' proposed briefing schedule and instead enter the following scheduling order: The Parties SHALL FILE their motions for summary judgment within sixty days hereof and notice the motions for hearing thereafter regularly under the Local Rules. The motions shall be filed in a single, fully integrated joint brief as set forth in our Order Re: Summary Judgment Motions issued concurrently herewith. Because we require summary judgment motions to be filed in the joint brief format, there is no need for a staggered briefing schedule as proposed by the Parties. Prior to filing the summary judgment motions, the Parties shall meet and confer in full compliance with Local Rule 7–3 and our Order Re: Summary Judgment Motions. We will permit the parties to meet and confer by telephone or any other means of real–time communication. However, if we later determine that the Parties have failed to fully satisfy their duties to meet and confer, we will strike their motions and require the Parties to meet and confer in person, on the record, in Los Angeles, to satisfy the pre–filing meet–and–confer requirement. (see document for further details) (bm) (Entered: 05/07/2012)
05/07/2012	<u>24</u>	ORDER RE: SUMMARY JUDGMENT MOTIONS by Judge George H. King, A deadline for dispositive motions has been set in the above–captioned case. Any motion(s) for summary judgment SHALL comply with all Federal and Local Rules, aswell as this Order. Please be advised that this Order contains requirements more specific than the Local and Federal Rules. (PLEASE REVIEW DOCUMENT FOR FULL AND COMPLETE DETAILS) re Minutes of In Chambers Order – no

		proceeding held, <u>23</u> (lw) (Entered: 05/07/2012)
06/26/2012	<u>25</u>	STIPULATION to amend Minutes of In Chambers Order/Directive – no proceeding held,,,, <u>23</u> filed by defendant United States Securities and Exchange Commission. (Attachments: # <u>1</u> Proposed Order)(Solonsky, Kevin) (Entered: 06/26/2012)
06/28/2012	<u>26</u>	ORDER EXTENDING DEADLINE FOR FILING JOINT SUMMARY JUDGMENT MOTION UNTIL SEPTEMBER 6, 2012 by Judge George H. King, re Stipulation <u>25</u> : Upon agreement of ARC Finance Group, LLC and the Securities and Exchange Commission ("parties"), and for good cause shown, it is hereby ORDERED, ADJUDGED, AND DECREED that the deadline for parties to file summary judgment motion(s) is extended until September 6, 2012. (bm) (Entered: 06/28/2012)
08/13/2012	<u>27</u>	NOTICE of Settlement <i>and Dismissal with Prejudice</i> filed by Plaintiff ARC Finance Group LLC. (Wittenberg, Eric) (Entered: 08/13/2012)
08/14/2012	<u>28</u>	NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Documents RE: Notice of Voluntary Dismissal <u>27</u> . The following error(s) was found: Incorrect event selected. Other error(s) with document(s) are specified below. The correct event is: Notices–Voluntary Dismissal of a Case (Pursuant to FRCP 41(a)(1)). Other error(s) with document(s): Answer has been filed. A proposed order should be submitted for approval by the court, by e-filing a Notice of Lodging, with the separate, additional attachment of the proposed order. In response to this notice the court may order (1) an amended or correct document to be filed (2) the document stricken or (3) take other action as the court deems appropriate. You need not take any action in response to this notice unless and until the court directs you to do so. (bm) (Entered: 08/14/2012)
08/17/2012	<u>29</u>	RESPONSE BY THE COURT TO NOTICE TO FILER OF DEFICIENCIES IN ELECTRONICALLY FILED DOCUMENTS – ORDER by Clerk of Court: DOCUMENT ACCEPTED. COURT WILL ISSUE ORDER DISMISSING IN LIGHT OF SETTLEMENT. RE: Notice of Settlement <u>27</u> (lw) (Entered: 08/17/2012)
08/20/2012	<u>30</u>	ORDER OF DISMISSAL by Judge George H. King: The Court having been advised pursuant to the Notice of Settlement and Voluntary Dismiss <u>27</u> , by counsel for the parties that the above–entitled action has been settled, IT IS ORDERED that this action be and is hereby dismissed in its entirety with prejudice. (Made JS–6. Case Terminated.) (ir) (Entered: 08/20/2012)